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BULLETIN "C"

INCOME TAX

Comparison of Titles and Sections of the Revenue Acts of 1917
and 1918 applicable to Income and Profits Taxes



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WASHINGTON
GOVERNMENT PRINTING OFFICE
1920



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PREFACE.

This comparison of the Revenue Acts of 1917 and 1918 is made on the following general plan:

- (a) Only those titles and sections applicable to income and profits taxes are compared.
- (b) The comparison is made in the order in which the various sections appear in the Revenue Act of 1918.
- (c) Difference in treatment of similar subjects in the two acts, features of either act not contained in the other, and entirely new features in the 1918 act are emphasized.
- (d) In all cases, regardless of how the subject is treated, corresponding sections of the two acts are placed opposite each other. If the subject is treated similarly in both acts, notation to that effect is made.
- (e) Although it is intended to emphasize differences, in some instances where a subject is entirely new in the 1918 act, mere notation to that effect is made, since reference can readily be made to the act itself for particulars.
- (f) Reference is made in some instances either to Regulations No. 33 revised or Regulations No. 45 where a subject may be specifically covered in one act but mentioned only in the regulations governing the other act.
- (g) The term "Act of 1916 as amended" means the Revenue Act of September 8, 1916, as amended by the Revenue Act of October 3, 1917. "Act of 1917" means the Revenue Act of October 3, 1917. Both acts were in effect for the year 1917.

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COMPARISON OF TITLES AND SECTIONS OF THE REVENUE ACTS OF 1917 AND 1918 APPLICABLE TO INCOME AND PROFITS TAXES.

1917.

The 1917 act contains no section covering general definitions. Sec. 200 of Title II, War Excess Profits Tax, defines "corporation," "domestic," "foreign," "United States," and "taxable year." The meaning of the terms is the same as when used in the 1918 Act.

The word "State" or "United States," when used in Title I, includes any Territory, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out the provisions of the title. (Sec. 15, Act of 1916 as amended.)

Sec. 200:

The "first taxable year" means the calendar year 1917, or in the case of partnerships and corporations which have established fiscal years any fiscal year ended in 1917. Individuals were not allowed to file fiscal-year returns under this act. Although this definition is given under the "War Excess Profits" title, it has the same meaning in applying the other "Income Tax" titles. *See also* Sec. 4, Act of 1917.

"Fiduciary" is defined in Art. 29 of Reg. No. 33 revised.

A "personal service corporation" is not defined under the 1917 act. Sec. 209 applies primarily to businesses, etc., engaged principally in rendering "personal services," but there is no exemption from tax for personal service corporations similar to that provided in the 1918 act.

See Art. 126 of Reg. No. 33 revised for "paid."

There was no distinction made in this act in the case of dividends paid by corporations which under the Revenue Act of 1918 would be classed as personal-service corporations. Sec. 31 (a).

Sec. 31 (a), Act of 1916 as amended.

1918.

TITLE I.—GENERAL DEFINITIONS.

SEC. 1.—General definitions.

The terms "Government contract," "military or naval forces of the United States," and "present war" are entirely new in this act.

The terms "Secretary," "Commissioner," "collector," "person," "taxpayer," "Revenue Act of 1916," and "Revenue Act of 1917" are not defined in the 1917 act, but when used in applying that act have the same meaning as defined in the 1918 act.

The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

TITLE II.—INCOME TAX.

Part I—General Provisions.

SEC. 200.—Definitions.

The "first taxable year" means the calendar year 1918 or any fiscal year ended in 1918.

The terms "fiduciary," "withholding agent," "personal service corporation," and "paid" are not defined in the 1917 act.

SEC. 201.—Dividends.

The term dividend includes any distribution made by a personal service corporation out of its earnings or profits accumulated only between February 28, 1913, and January 1, 1918.

Stock dividends are taxed under both acts.

1917.

Dividends in general received by individuals were taxable at the rates in effect for the years when the earnings were accumulated. Sec. 31 (b), Act of 1916 as amended.

Dividends received by corporations were subject to income tax, but only at the 2 per cent rate, or at 1 per cent only if from earnings or profits accumulated during 1913, 1914, or 1915.

Any dividend distribution (except those made prior to Aug. 6, 1917, out of earnings or profits accrued prior to Mar. 1, 1913) were deemed to have been made from the most recently accumulated surplus or undivided profits, even though paid during the first 60 days of the taxable year. This provision included stock dividends and determined the rate at which the dividend was taxed in the hands of stockholders. Sec. 31(b), Act of 1916 as amended.

In the case of sale of property acquired prior to March 1, 1913, its fair market price or value as at that date shall be the basis for determining the gain or loss. Sec. 2(c), 5(a), 4 and 10(a), Act of 1916 as amended.

Prior to the date of T. D. 2609 (Dec. 19, 1917) inventories were computed on the basis of cost. Sec also T. B. R. 48, Bulletin No. 16, p. 3.

No similar provisions in the 1917 act.

1918.

Dividends in general received by individuals are taxed at the rates in effect for the years in which the dividends were received.

Stock dividends received by individuals between January 1, 1918, and March 27, 1919, are taxable at the rates in effect for the years in which the earnings or profits distributed were accumulated.

Dividends received by corporations from corporations subject to tax and from personal service corporations out of earnings or profits upon which income tax has been imposed are not subject to income or profits taxes. See Sec. 234(a) 6.

Dividend distributions are deemed to be made from the most recently accumulated earnings or profits unless made during the first 60 days of the taxable year, in which case they are deemed as made from earnings or profits of prior years. This does not affect the taxability of the dividends in the hands of stockholders.

SEC. 202.—*Basis for determining gain or loss.*

The same provisions effective under the 1917 act apply with the following exceptions:

If property acquired prior to March 1, 1913, is inventoried in accordance with Sec. 203, its inventory value is the basis.

In the case of reorganizations, mergers, or consolidations involving exchange of stock for stock or securities of no greater aggregate par or face value, no gain or loss is deemed to occur from the exchange.

SEC. 203.—*Inventories.*

Inventories may be taken on any basis prescribed by regulations as conforming to the best accounting practice in the trade or business and most clearly reflecting the income of the taxpayer.

The regulations (No. 45) prescribe that the basis shall be either (a) cost, or (b) cost or market whichever is lower. Art. 1582.

SEC. 204.—*Net losses.*

This section allows a taxpayer who sustains a "net loss" as defined in (a) for any taxable year beginning after October 31, 1918, and ending prior to January 1, 1920, to deduct such net loss from the net income of his preceding taxable year and have his taxes adjusted accordingly. If the net loss exceeds the net income of the preceding taxable year, the excess may be deducted from the net income of the succeeding taxable year.

1917.

Under the revenue act of 1917 if a fiscal year return covered portions of years with different tax rates, the rates in effect for each year were applied only to the same proportionate part of the total net income as the number of months falling within such year bore to the entire period covered by the return. SEC. 10(a), Act of 1916 as amended.

Applicable to corporations and partnerships only since individuals were not allowed to file returns on a fiscal-year basis under the act of 1917.

No similar provision in this act. However, similar cases arising under this act are to be treated in the same manner.

SEC. 1:

NORMAL TAX—CITIZENS AND RESIDENT ALIENS.

Act of October 3, 1917, 2 per cent of net income in excess of exemption.

Act of September 8, 1916, 2 per cent of net income in excess of exemption.

NORMAL TAX—NONRESIDENT ALIENS.

2 per cent of total net income from sources within the United States.

1918.

SEC. 205.—*Fiscal years with different rates.*

Under the 1918 act, if a fiscal-year return covers parts of years subject to different tax rates, both the net income and the tax are computed for the full fiscal year under both acts in effect or under both rates, and the same number of twelfths of each result taken as the number of months falling within each year subject to different rates.

The last paragraph of Sec. 8(e), Act of 1916 as amended, and Sec. 218(b), Act of 1918, appear to outline the same method of taxing partners' shares of partnership profits when the fiscal year of the partnership covers parts of years with different tax rates. However, Sec. 218(b) is modified by Sec. 205(c).

SEC. 206.—*Parts of income subject to rates for different years.*

This section provides that when parts of a taxpayer's income are subject to rates for different years, the parts subject to the rates for the most recent calendar year are placed in the lower brackets of the tax-rate schedules, the part subject to the rates for the next preceding calendar year in the next higher brackets, etc.

Part II.—Individuals.

SEC. 210.—*Normal tax.*

CITIZENS AND RESIDENT ALIENS.

For 1918.

12 per cent of the amount of net income in excess of the credits provided in Sec. 216; provided, the rate upon the first \$4,000 of such amount shall be 6 per cent.

For subsequent years.

8 per cent of the amount of the net income in excess of the credits provided in Sec. 216; provided that the rate upon the first \$4,000 of such amount shall be 4 per cent.

NONRESIDENT ALIENS.

For 1918.

12 per cent of total net income from sources within the United States. (Possible credits; see Sec. 217.)

1917.

For excess profits tax rates see Secs. 201 and 209, Act of 1917.

Sec. 1 (b), Act of 1916 as amended.

Sec. 2, Act of 1917.

Under this act surtaxes were imposed on income in excess of \$5,000, as in the Act of 1918, but income in excess of \$20,000 was subject also to the surtax imposed by the Act of September 8, 1916.

Under the 1917 act the rates increased from 1 per cent on the amount by which the total net income exceeded \$5,000 but did not exceed \$7,500 to 50 per cent of the net income in excess of \$1,000,000. Under the 1916 act the surtax ranged from 1 per cent on the net income exceeding \$20,000 and not exceeding \$40,000 to 13 per cent on the amount exceeding \$2,000,000. The highest surtax rate was thus 63 per cent on net income in excess of \$2,000,000.

Under the provisions of Sec. 31 (b), Act of September 8, 1916, as amended, dividends received are taxable at the rates, surtax only (Sec. 5 (b), Act of 1916 as amended), in force for the year in which the amounts distributed were accumulated.

No similar provision in this act.

Sec. 2 (a), Act of 1916 as amended, defines net income in the case of an individual, and states in general the items to be included in gross income. Gross income is defined in separate sections in the Act of 1918.

Individuals were permitted to make returns on a basis other than actual receipts and disbursements provided such method correctly reflected their net income, but all returns were required to be on a calendar-year basis. (Sec. 8 (a) and (g), Act of 1916 as amended).

Changes in accounting period under the 1917 act applied to partnerships [Sec. 8(e)] and corporations [Sec. 13(a)] only which were allowed to establish a fiscal year for the purpose of making returns by designating the last day of any month as

1918.

For subsequent years.

8 per cent of total net income from sources within the United States. (Possible credits; see Sec. 217.)

Individuals not subject to profits tax.

Sec. 211.—*Surtax.*

(a) The surtax begins with a tax of 1 per cent on net income over \$5,000 and not exceeding \$6,000. The rates increase gradually from this point to a maximum of 65 per cent on the net income in excess of \$1,000,000.

All dividends received by individuals (except stock dividends as explained in Sec. 201) are subject to surtax rates for years in which they were received.

(b) Surtax in the case of bona fide sale of mines, oil or gas wells, or any interest therein, where the taxpayer has demonstrated principal value by prospecting or exploration or discovery work is limited to 20 per cent of the selling price of the property or interest.

SEC. 212.—*Net income defined.*

This section applies to all taxpayers.

(a) Net income is defined as gross income less allowable deductions.

(b) Net income is to be computed on the basis of the taxpayer's annual accounting period (calendar or fiscal as the case may be) in accordance with the method of accounting regularly employed in keeping his books, unless such method does not clearly reflect the income.

A change in accounting period for the purpose of computing net income may be made only upon approval by the *Commissioner*. Notice of such change, together with reasons therefor, must be filed (1) at least 30 days before the due

1917.

the close of the fiscal year, and giving notice of such action to the collector for the district in which their principal offices were located. This notice was required to be filed at least 30 days before the due date of the return for the existing taxable year. Provision was made in Reg. 33 revised for changing from a fiscal year to a calendar year (Art. 217) and from one fiscal year to another (Art. 213).

See Sec. 2 (a), Act of 1916 as amended, income defined, individuals. Gross income of corporations is not specifically defined.

Under this act the items mentioned in Sec. 213 (b) 6, Act of 1918, were taxable.

See Sec. 4, Act of 1916 as amended.

Sec. 30, Act of 1916 as amended.

The items to be included in gross income by nonresident alien individuals are practically the same under both acts.

Sec. 5 (a), First.

1918.

date of the return for the existing taxable year, and (2) at least 30 days before the due date of the return for the proposed taxable year. Upon approval of a change returns must be made in accordance with Sec. 226.

A taxpayer who has an existing fiscal year accounting period needs no permission to file returns on such basis, but is required to do so by the act regardless of how prior returns were filed. See Arts. 25 and 26 of Reg. No. 45.

SEC. 213.—*Gross income defined.*

(a) Inclusions.

New in 1918 act:

The salaries of the President of the United States and Judges of the Supreme and inferior courts of the United States; and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision, or the District of Columbia, must be included in gross income.

(b) Exclusions.

New in 1918 act:

Proceeds of life insurance policies when paid to the estate of the insured.

Interest on obligations of a territory or of the District of Columbia.

Interest on bonds issued by the War Finance Corporation to the extent provided in the act authorizing their issue.

Amounts received through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness.

So much of the amount received during the present war by a person in the military or naval forces of the United States for active service in such forces, as does not exceed \$3,500.

That part of (b) 5 reading as follows: "or from any other source within the United States."

(c) Nonresident alien individuals.

This part of Sec. 213 is new as the Act of 1917 does not specifically define gross income in the case of a nonresident alien individual.

Sec. 214.—*Deductions allowed.*

(a) 1. Business expenses.

The words "not including personal, living, or family expenses" are omitted from this section but are treated separately under Sec. 215, Items not deductible. The effect is the same.

New in 1918 act:

"Including a reasonable allowance for salaries or other compensation for personal

1917.

Sec. 5 (a), Second.

Sec. 5 (a), Third.

Taxes "paid" (Sec. 5a, Third and Sec. 12 (a), Fourth); but *see also* Arts. 126 and 127, Reg. 33 revised.

No taxes assessed against local benefits were deductible under this act.

Nonresident aliens were not allowed to deduct foreign taxes under the 1917 act. Sec. 6 (a) Third, act of 1916 as amended.

Sec. 5 (a), Fourth.

Sec. 5 (a), Fifth.

Sec. 5 (a), Fourth.

Sec. 5 (a), Sixth.

Sec. 5 (a), Seventh.

1918.

services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession for purposes of the trade or business of property to which the taxpayer has not taken or is not taking title or in which he has no equity."

While the above clause is new in the 1918 act, similar deductions were allowable under the 1917 act.

(a) 2. Interest.

New in 1918 act:

"Accrued," in the first line. (This makes no real change, since accrued interest was permitted as a deduction under the 1917 act if charged on the books and if income is reported on an accrual basis.)

The amount of interest paid on indebtedness incurred or continued in carrying or purchasing obligations of the United States issued after September 24, 1917, the interest upon which is entirely exempt from tax.

(a) (3). Taxes.

New in 1918 act:

"Or accrued" in first line.

That part of subdivision (c) reading as follows: "of a kind tending to increase the value of the property assessed."

Subdivision (c) is new in that it allows a nonresident alien individual to deduct foreign taxes, other than income, excess profits, or local benefit taxes, but only to the extent they are connected with income arising from United States sources.

(a) (4), (5), (6). Losses.

(4) Same as 1917 act.

(5) Same as 1917 act except that the restriction "not compensated by insurance or otherwise" is added, and the limitation of the deduction to "an amount not exceeding the profits arising therefrom" is removed.

(6) Same as 1917 act, except for words "but in the case of a nonresident alien individual, only property within the United States."

The net effect of the changes in this subdivision (4, 5, 6) is to allow the deduction of all losses sustained during the year in transactions entered into for profit, whether or not connected with the regular business.

(a) 7. Bad debts.

Same as 1917 act.

(a) 8. Depreciation.

1917.

No provision for obsolescence under the 1917 act.

No similar provision in the 1917 act.

Sec. 5 (a), Eighth.

See Art. 173, Reg. 33 revised.

In the case of leased property, only the bonus payment for the lease, not the value as at March 1, 1913, was the basis for depletion.

No similar provision in the 1917 act.

Sec. 5 (a), Ninth.

No similar provision.

Sec. 6 (a), First to Seventh, inclusive.

1918.

New in 1918 act:

"Including a reasonable allowance for obsolescence."

(a) 9. Amortization.

Entirely new in 1918 act.

(a) 10. Depletion.

Depletion is allowed in the same cases as in the 1917 act.

"Other natural deposits" and "timber" were not mentioned in the 1917 act, although depletion was allowed in both cases.

In the case of leased mines, depletion is to be "equitably apportioned between lessor and lessee."

In the case of mines, oil and gas wells discovered after March 1, 1913, and not acquired in purchasing a proven tract or lease, the value at the time of discovery or within 30 days thereafter is the basis for depletion.

(a) 11. Charitable contributions.

New in 1918 act:

Contributions to the special fund for vocational rehabilitation are deductible.

Nonresident aliens are allowed to deduct only contributions or gifts to domestic corporations or to the vocational rehabilitation fund.

(a) 12. Loss in inventory.

This subject is entirely new in the 1918 act.

(b) Nonresident aliens.

In the case of nonresident aliens the same differences in allowable deductions as between the 1917 and 1918 acts apply as in subdivision (a) 1 to 12 of this section, except as to taxes and charitable contributions. The differences in these items are shown in (a) 3 and 11. As in the 1917 act, the deductions may be allowed only to the extent they are connected with income arising from sources within the United States.

1917.

No similar section under the 1917 act. The several items mentioned in the 1918 act are all provided for in the sections covering deductions. Secs. 5 (a), First, 6 (a), First, and 32.

Secs. 1 (b) and 5 (b), Act of 1916 as amended.

Sec. 7, Act of 1916 as amended.

\$3,000 to a single person.

\$4,000 to a married person living with husband or wife.

These exemptions only for the 2 per cent normal tax under this act.

Sec. 3, Act of 1917:

\$1,000 to a single person.

\$2,000 to a married person living with husband or wife, or to the "head of a family."

These exemptions only for the 2 per cent additional normal tax under this Act.

\$200 for each child * * *.

No personal exemption or credit for dependents allowed to nonresident aliens under the 1917 act.

Sec. 6 (a), Act of 1916 as amended.

Partnerships not subject to "income tax."

Sec. 8 (e), Act of 1916 as amended.

Subject to excess profits tax if net income exceeded \$6,000.

1918.

SEC. 215.—*Items not deductible.*

Same as 1917 act.

SEC. 216.—*Credits allowed.*

(a) Same as 1917, except that dividends distributed by personal service corporations from tax-paid earnings or profits are included.

(b) New in 1918 act, but note that only interest on United States obligations issued after September 1, 1917, is required to be included in gross income.

(c) \$1,000 to a single person.

\$2,000 to a married person living with husband or wife or to the "head of a family."

(d) \$200 for each person * * *.

(e) Entirely new in 1918 act.

SEC. 217.—*Nonresident aliens.*

ALLOWANCE OF DEDUCTIONS AND CREDITS.

Practically same as 1917 act, except that provision is made for claiming the credits provided in Sec. 216 (c) and (d) by filing a claim therefor with the withholding agent.

SEC. 218.—*Partnerships and personal-service corporations.*

(a) Same as 1917 act, but every partnership must file an income return regardless of the amount of net income. Sec. 224.

Not subject to war profits or excess-profits tax.

1917.

Sec. 8 (e), Act of 1916 as amended.

Partnerships not required to file returns unless requested by Commissioner. Sec. 8(e) and Art. 30, Reg. 33 revised.

The subject of personal service corporations is not covered in the 1917 act.

Sec. 2(b), act of 1916 as amended.

Charitable contributions when allowed to estates and trusts under the 1917 act are limited to 15 per cent of the net income as computed without such deduction.

Sec. 3, Act of 1916 as amended.

If this section is applied to any corporation, it is not taxed as a corporation but its entire net income, whether distributed or not, must be accounted for by the shareholders.

Sec. 9 (b) and (c), Act of 1916 as amended.

Highest rate on individuals 2 per cent.

Same principle is applicable under the 1917 act.

1918.

(b) This subdivision applies the same principle as the 1917 act, but it must be read and applied in connection with Sec. 205 (c) of the 1918 act. For further explanation see Arts. 324 and 1621 of Reg. No. 45.

(c) New in 1918 act.

(d) New in 1918 act.

(e) New in 1918 act: Personal service corporations are treated in the same manner as partnerships; that is, they are not subject to income or profits taxes but must file returns.

SEC. 219.—*Estates and trusts.*

(a) Same as 1917 act.

(b), (c), and (d) are new in the 1918 act, but the same principles apply under the 1917 act except that part of (b) covering the deduction allowed in fiduciary returns in lieu of that allowed under Sec. 214 (a) 11. This deduction is limited only to the amount paid or set aside pursuant to the terms of the will or deed creating the trust.

SEC. 220.—*Profits of corporations taxable to stockholders.*

This section differs from Sec. 3 of the 1917 act as follows:

"Fraudulently" is omitted.

Mere holding companies are held to be prima facie of the class described in this section. When this section is applied to a corporation it shall not be subject to the taxes imposed by Sec. 230 but shall be subject to the tax imposed by Title III of the 1918 act, which tax shall be deducted from the net income before the computation of the proportionate share of each stockholder.

SEC. 221.—*Payment of tax at source.*

This subject is treated in essentially the same manner as in the 1917 act except for the difference in rates.

New in 1918 act:

The Commissioner may authorize withholding of tax at highest applicable rates on interest upon securities the owners of which are not known to the withholding agent.

Highest rate on individuals 8 per cent.

(e) Not covered in the 1917 act.

1917.

Not covered in 1917 act.

Under the 1917 act returns were required of every *person of lawful age* having net income in excess of certain specified exemptions.

Sec. 8 (b) and (c), act of 1916 as amended, and Sec. 3, Act of 1917.

Partnerships required to file returns only when requested to do so by the Commissioner or any collector. Sec. 8 (e), act of 1916 as amended. Excess profits tax returns were required if the net income for the taxable year was \$6,000 or more.

Sec. 8(c), act of 1916 as amended.

Individuals were not allowed to file fiscal year returns under this act.

See arts. 211, 213, 214, 215, and 217, Reg. No. 33 revised.

Secs. 8 (b) and 13 (b), act of 1916 as amended.

Calendar year returns were required to be filed on or before March 1, of the succeeding year and fiscal year returns within 60 days after the close of the taxable year.

"The Commissioner shall have authority to grant a *reasonable extension of time*
* * * ." Sec. 8 (b).

Not covered in the 1917 act.

Sec. 19, act of 1916 as amended.

Sec. 10 (a), Act of 1916 as amended. 2 per cent on net income.

Sec. 4, Act of 1917, 4 per cent additional on net income.

Credits were allowed against net income as follows:

1918.

SEC. 222.—*Credit for taxes.*

Entirely new in 1918 act.

SEC. 223.—*Individual returns.*

This act requires returns of every *individual* having net income in excess of certain specified exemptions.

SEC. 224.—*Partnership returns.*

Every partnership required to file a return regardless of the amount of income.

SEC. 225.—*Fiduciary returns.*

Same as 1917 act.

SEC. 226.—*Returns when accounting period changes.*

Provisions for filing returns by taxpayers when accounting period changes.

SEC. 227.—*Time and place for filing returns.*

Same as 1917 act, except as follows:

Returns must be filed on or before the 15th day of the third month following the close of the fiscal year, or in the case of a calendar-year return, on or before the 15th day of March of the succeeding year.

Except in the case of persons abroad, no extension of time for filing returns may be for more than six months.

The Commissioner shall keep a record of the extensions of time granted and the reasons therefor.

SEC. 228.—*Understatement in returns.*

Same as 1917 act.

Part III.—Corporations.

SEC. 230.—*Tax on corporations.*

(a) For 1918, 12 per cent on net income in excess of credits.

For subsequent years, 10 per cent on net income in excess of credits.

1917.

For the purpose of the 4 per cent additional tax, dividends received from taxable corporations and the amount of any excess-profits tax assessed for the same calendar or fiscal year. Sec. 29, Act of 1916, as amended, and Sec. 4, Act of 1917.

The amount of excess profits tax assessed was a credit for the 2 per cent tax also (Sec. 29) but dividends were subject to tax at 2 per cent if from 1916 or 1917 earnings and at 1 per cent if from earnings of 1913, 1914 or 1915.

Sec. 10 (b). Tax on undistributed income of corporations.

Sec. 11, Act of 1916 as amended.

See Sec. 12 (a), Act of 1916 as amended.

Gross income not defined.

Sec. 12 (a), Second, Act of 1916 as amended.

Not specifically defined in the 1917 act. See Sec. 12 (b), Act of 1916 as amended.

SEC. 12 (a). First, Expenses "paid." Applied same as 1918 act. See Art. 126, Reg. 33 revised.

SEC. 12 (a), First, Second, and Fourth, Act of 1916 as amended.

SEC. 12 (a), Third.

Deduction of interest was limited to the amount paid on its indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which was exempt from tax) to an amount of such indebtedness not exceeding: (a) The entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of capital employed in the business at the close of the year plus, (b) One-half of the interest-bearing indebtedness then outstanding.

1918.

(For war and excess profits rates see Sec. 301.)

No similar provision in 1918 act.

(b) New in 1918 act.

SEC. 231.—*Conditional and other exemptions.*

Same as 1917 act except as follows:

Additional exemptions:

(6) Organizations organized and operated exclusively for the prevention of cruelty to children and animals.

(14) Personal-service corporations.

Exemptions eliminated:

Joint stock land banks.

SEC. 232.—*Net income defined.*

See comparison under Sec. 212.

SEC. 233.—*Gross income defined.*

(a) See comparison under sec. 213 (a).

(a) 1 and 2 same as 1917 act.

Practically the same items were required to be included in gross income of foreign corporations under the 1917 act.

SEC. 234.—*Deductions allowed.*

(a) 1. Expenses "paid" or "incurred"
* * *

{ (a) 1 } See comparison under Sec.
{ (a) 3-5 } 214 (a).
{ (a) 7-9 } Same as 1917 act.
{ (a) 14 }

(a) 2. All interest paid or accrued on indebtedness is deductible except on indebtedness incurred or continued to purchase or carry securities the interest upon which is exempt from tax; but interest on indebtedness incurred or continued to purchase or carry obligations of the United States issued after September 24, 1917, is deductible.

1917.

1918.

Interest on collateral indebtedness secured by property the subject of sale in the ordinary course of the business was deductible as an expense of doing business but was limited to the interest paid on an amount of such indebtedness not exceeding the actual value of the property collateral.

Under the 1917 act dividends received were subject to income tax, but only at the 2 per cent rate, or at 1 per cent only if from earnings of 1913, 1914, or 1915. For the purpose of the 4 per cent additional tax, they were an allowable credit against net income. Sec. 4, act of 1917.

Dividends from taxable corporations were not subject to excess-profits tax. Sec. 206 (c), Act of 1917.

SEC. 12 (a), Second (c).

SEC. 12 (a), Second (c).

SEC. 12 (a), Second (c).

SEC. 12 (b), Act of 1916 as amended.

The allowable interest deduction in the case of a foreign corporation was the interest paid on an amount of its indebtedness not exceeding the same proportion of the sum of its paid up capital stock and one half of its interest bearing indebtedness both outstanding at the close of the year as its gross income from business transacted and capital invested in the United States bore to the gross income from all sources within and without the United States.

See Secs. 6, 12, and 32, Act of 1916 as amended.

Under the 1917 act interest from obligations of the United States was not required to be included in gross income, therefore no credit was required as to net income. That part of such interest income subject to excess-profits tax was added to the net income for income-tax purposes. See Form 1103, Schedule I, item 2.

Bonds of the War Finance Corporation are not mentioned in the 1917 act.

Sec. 29, act of 1916 as amended.

In the case of return for a fiscal year ended in 1917 the excess-profits tax for the portion of the year falling within 1917 is deducted from the net income for the full fiscal year *before* apportioning the net income for the purpose of applying the 4 per cent additional tax.

(a) 6. Under the 1918 act, dividends received from corporations subject to taxation or from personal service corporations out of tax-paid earnings, are not subject to tax. They must be included in gross income but are deductible under this subdivision.

Same as 1917 act.

(a) 10. Same as 1917 act.

(a) 11. Not covered in 1917 act.

(a) 12. Same as 1917 act.

(a) 13. Same as 1917 act.

(b) See comparison under Sec. 214 (b). Same general limitation as in 1917 act except in the case of interest.

SEC. 235.—*Items not deductible.*

See comparison under Sec. 215.

SEC. 236.—*Credits allowed.*

(a) New in 1918 act.

(b) Same as 1917 act.

In the case of a return for a fiscal year ended in 1918 this subdivision must be applied in accordance with Sec. 205 (a).

1917.

Sec. 13 (f), act of 1916 as amended.

A tax of 2 per cent shall be withheld on dividends upon the capital stock or from the net earnings of domestic or other resident corporation payable to nonresident alien companies not engaged in business or trade within the United States and not having any office or place of business therein.

Sec. 13 (e), act of 1916 as amended.

Interest on bonds of domestic corporations payable to nonresident alien corporations is subject to withholding at the rate of 6 per cent.

If such corporation has an office, agent, or a place of business in the United States, certificate Form 1001 shall be filed establishing such fact and relieving the corporation from the deduction of tax at the source.

Sec. 13 (a) to (d), act of 1916 as amended.

No provision in the 1917 act for consolidated returns for income-tax purposes, but they were required, or allowed under certain conditions for excess-profits-tax purposes. See Arts. 76 and 77 of Reg. No. 41 and T. D. 2662—T. D. 2901 modified paragraph F of T. D. 2662.

Sec. 13, act of 1916 as amended.

Calendar-year returns were due March 1 of the succeeding year. (Time for filing all 1917 fiscal and calendar year returns was extended to April 1, 1918, by T. D. 2650.)

Fiscal year returns were due 60 days after the close of the fiscal year.

1918.

(c) New in 1918 act.

SEC. 237.—*Payment of tax at source.*

A tax of 10 per cent shall be withheld in the case of fixed or determinable annual or periodical income (other than dividends from corporations liable to the income tax and interest upon corporate bonds containing a tax-free covenant clause) payable to a foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, also a tax of 2 per cent on tax-free covenant bonds paid to a foreign corporation not having an office or place of business within the United States. Withholding at 10 per cent is also required from interest on bonds or other securities where the owner of such securities is unknown to the withholding agent.

SEC. 238.—*Credit for taxes.*

New in 1918 act. See comparison under Sec. 222.

SEC. 239.—*Corporation returns.*

Same as 1917 act except the following: Provision requiring an agent of a nonresident foreign corporation to file a return for the corporation.

Returns of all corporations are subject to the provisions of Secs. 226, 227, and 228.

Provision for prorating the specific exemption of \$2,000 in the case of returns under Sec. 226.

SEC. 240.—*Consolidated returns.*

New in 1918 act for income-tax purposes.

SEC. 241.—*Time and place for filing returns.*

(a) Calendar-year returns must be filed on or before March 15 of the succeeding year and fiscal year returns on the 15th day of the third month following the close of such fiscal year; otherwise same as in 1917 act.

1917.

1918.

Part IV.—Administrative Provisions.

SEC. 250.—Payment of tax.

Secs. 9 (a) and 14 (a), act of 1916 as amended.

Tax must be paid on or before June 15 of the succeeding year except in the case of fiscal-year returns, when the tax must be paid on or before the expiration of 105 days after the time fixed by law for filing the return. The provision as to fiscal-year returns does not apply to individuals.

Sec. 1009, act of 1917.

Provision is made in this section for payment of tax in installments as follows:

At least one-fourth on or before 30 days after the close of the taxable year.

At least one-fourth within 2 months after the close of the taxable year.

At least one-fourth within 4 months after the close of the taxable year.

Remainder on or before the time fixed by law [See Secs. 9 (a) and 14 (a)] for payment of the tax.

When paid in advance as outlined credit is allowed against such advance payments at not exceeding 3 per cent per annum computed on the amount so paid from the date paid to the time fixed by law for payment of the tax.

No credit allowed on—

(a) Amounts exceeding the taxes determined to be due.

(b) Any payment made after 4½ months following the close of the taxable year.

No similar provision in 1917 act.

Sec. 16, Act of 1916 as amended.

Secs. 9 (a) and 14 (a), Act of 1916 as amended.

Secs. 9 (a) and 14 (a), Act of 1916 as amended.

Three-year limitation under the 1917 act. The limitation is not necessarily on the assessment, but upon the discovery of delinquency or error within three years.

Secs. 9 (a) and 14 (a) Act of 1916, as amended.

Arts. 262 and 263, Reg. No. 33, revised.

(a) Payment of tax authorized in installments as follows:

One-fourth at the time fixed by law for filing the returns and equal payments in three, six and nine months, respectively, thereafter.

An extension of time for filing the returns extends the time of payment of first installment of tax only unless otherwise provided in the extension.

Interest at $\frac{1}{2}$ of 1 per cent a month is added to any installment payment postponed at taxpayer's request.

Entire tax payable on notice and demand if any installment is not paid when due.

Entire tax may be paid in one installment on or before the time fixed by law for filing the return, or, if an extension has been granted, on or before the expiration of the extension.

(b) Provides for prompt examination of the return and determination of correct amount of tax, recomputation of installments, and adjustment of payments due either by—

(1) Crediting any overpayment against subsequent installments or by refund.

(2) Requiring payment upon notice and demand of any deficiency in installments due.

Provides penalties for understatements due to negligence or willful fraud.

(c) Tax is due upon notice and demand if return is made under Sec. 3176, R. S., as amended.

(d) Provides a five-year limitation for determination and assessment of tax or suit or proceeding for collection of tax except in the case of false or fraudulent returns with intent to evade the tax, in which case there is no limit for collection of the tax.

(The five-year limitation is on taxes imposed by the Act of 1918 only. O-833.)

(e) Provides for 5 per cent penalty and 1 per cent per month interest on any unpaid tax from the time due until paid, except that such penalty and interest will

1917.

Taxpayers shall be notified of the amounts for which they are liable on or before June 1 of each year.

Secs. 9 (a) and 14 (a), act of 1916, as amended.

No similar provision in 1917 act.

No similar provision in 1917 act.

Sec. 16, Act of 1916 as amended; sec. 3176, R. S., as amended.

AD VALOREM PENALTIES.

Failure to file returns within prescribed time, 50 per cent of tax.

If filed voluntarily and without notice from collector, and delay is due to reasonable cause, none.

False or fraudulent returns willfully made, 100 per cent of tax.

Sec. 17, Act of 1916 as amended.

"It shall be the *duty* of every collector" to give receipts for taxes paid.

Sec. 14 (a), Act of 1916 as amended.

Also Secs. 3220 and 3225, R. S.

Sec. 14 (d), Act of 1916 as amended (Sec. 3225, R. S.).

"When a second assessment is made in case of any list, statement, or return, which in the opinion of the collector or deputy collector was false or fraudulent, or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suit unless it is proved that the said list, statement, or return was not false nor fraudulent and did not contain any understatement or undervaluation; but this section shall not apply to statements or returns made or to be made in good faith under the laws of the United States regarding annual depreciation of oil or gas wells and mines."

1918.

not apply to that part of such tax covered by a bona fide claim for abatement.

Instructions on returns are considered sufficient notice and demand in case of first installment of tax.

(f) New in 1918 act. Five dollars added to the tax when necessary to serve a warrant of distraint.

(g) Procedure for collection of taxes from taxpayers designing to leave the United States or to remove their property therefrom.

Sec. 3176, R. S., as amended by Sec. 1317, Act of 1918.

AD VALOREM PENALTIES.

Failure to file returns within prescribed time, 25 per cent of tax.

If failure is due to "reasonable cause," none. See Com. Mim. 2200 for "what constitutes reasonable cause."

False or fraudulent returns willfully made, 50 per cent of tax.

SEC. 251.—Receipts for taxes.

When requested by taxpayers, collectors are required to give receipts for taxes paid. Otherwise same as 1917 act.

SEC. 252.—Refunds.

Also Secs. 3220 and 3225, R. S.

Generally same as 1917 act except as follows:

New in 1918 act:

Provision for offsetting overpayments of tax in one year against underpayments in another.

Five-year limitation on such adjustment either by credit or refund unless a claim has been filed by the taxpayer before the expiration of the five years.

Sec. 3225, R. S., as amended by Sec. 1316, Act of 1918, reads as follows:

"When a second assessment is made in case of any list, statement, or return, which in the opinion of the collector or deputy collector was false or fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be refunded, or paid back, or recovered by any suit, unless it is proved that such list, statement, or return was not willfully false or fraudulent and did not contain any willful understatement or undervaluation."

1917.

Sec. 18, Act of 1916 as amended.

Penalty is not less than \$20 nor more than \$1,000 for *refusal* or *neglect* to pay taxes, make returns, or supply information required by the act.

Sec. 14 (c), Act of 1916 as amended.

Corporations, joint stock companies, or associations, and insurance companies that *refuse* or *neglect* to make returns as required, or make false or fraudulent returns are liable to a penalty of not more than \$10,000.

Sec. 18, Act of 1916 as amended.

Individuals, and any officers of any corporations, partnerships, associations, or insurance companies required by law to make, sign, or verify any return or supply any information, who make false or fraudulent returns or statements with intent to defeat or evade the tax shall be guilty of a misdemeanor and be fined not exceeding \$2,000 or be imprisoned for not more than one year, or both, with the costs of prosecution.

Sec. 1004, Act of 1917.

Whoever fails to make any return required by this act or the regulations, makes any false or fraudulent returns, evades or attempts to evade the tax imposed, or fails to collect or pay over any such tax, is subject to a penalty of not more than \$1,000 or to imprisonment for not more than a year, or both, at the discretion of the court, and in addition thereto a penalty of double the tax evaded or not paid.

Sec. 26, Act of 1916 as amended.

Sec. 27, Act of 1916 as amended.

Sec. 28, Act of 1916 as amended.

Returns were required in cases of payments of \$800 or more.

1918.

SEC. 253.—Penalties.

This section prescribes specific penalties. See Sec. 250 for ad valorem penalties.

Under the 1918 act any individual, corporation, or partnership that fails to pay or collect any tax, make any returns, or supply any information required by the act is liable to a penalty of not more than \$1,000.

Any individual, corporation, or partnership, or any officer or employee of any corporation or member or employee of a partnership, who willfully refuses to pay or collect such tax, to make such return, or to supply such information at the time or times required under this title, or who willfully attempts in any manner to defeat or evade the tax imposed by this title, shall be guilty of a misdemeanor and shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

SEC. 254.—Returns of payments of dividends.

Same as 1917, except that the corporation need not state in the return the years when the amounts distributed were earned.

Personal service corporations also are subject to the provisions of this section.

SEC. 255.—Returns of brokers.

Same as 1917 act.

SEC. 256.—Information at source.

Practically same as 1917 act, except that returns are required in case of payments of \$1,000 or more and returns are required only to the extent that the Commissioner with the approval of the Secretary, may prescribe.

1917.

Sec. 14 (b), Act of 1916 as amended.

Sec. 21, Act of 1916 as amended.

Sec. 9 (f), Act of 1916 as amended.

Not covered in 1917 act.

Sec. 23, Act of 1916 as amended.

Sec. 5, Act of 1917.

The war income tax does not apply to Porto Rico or the Philippine Islands.

Sec. 200, Definitions.

In general, same as for 1918.

"Trade and business" includes professions and occupations. (Not applicable in 1918.) Net income in the case of a foreign corporation or partnership or a nonresident alien individual means the net income from sources within the United States.

1918.

SEC. 257.—*Returns to be public records.*

Practically same as 1917 act, except as follows:

Stockholders of record owning 1 per cent or more of the stock of a corporation shall be allowed to examine the corporation's return, but a penalty is provided for improper disclosures of any information so obtained.

The Commissioner is required to make public in such manner as he shall determine lists containing names and addresses of all individuals making income-tax returns.

SEC. 258.—*Publication of statistics.*

Same as 1917 act.

SEC. 259.—*Collection of foreign items.*

Same as 1917 act.

SEC. 260.—*Citizens of United States possessions.*

Citizens of United States possessions not residents of the United States are subject to income tax only on income derived from sources within the United States.

SEC. 261.—*Porto Rico and Philippine Islands.*

In Porto Rico and the Philippine Islands the Act of 1916 as amended is in force, but not the Act of 1918. *See also* sec. 1400.

TITLE III.—WAR-PROFITS AND EXCESS-PROFITS TAX.

Part I.—General Definitions.

SEC. 300.—*General definitions.*

Taxable year, fiscal year, personal-service corporation, paid or accrued, and dividends have same meaning as in Secs. 200 and 201.

1917.

Sec. 201.

(Tax applies to corporations, partnerships, and individuals.)

Rate of tax (1917 only).

Bracket.	Amount of net income.	Rate per cent.
1.	Net income in excess of deduction but not over 15 per cent of invested capital.....	20
2.	Net income between 15 and 20 per cent of invested capital.....	25
3.	Net income between 20 and 25 per cent of invested capital.....	35
4.	Net income between 25 and 33 per cent of invested capital.....	45
5.	Net income in excess of 33 per cent of invested capital.....	60

The total tax will be the sum of the tax in the five brackets.

Every partnership and corporation not exempt shall be deemed to be engaged in trade or business.

Sec. 209.

In case of a trade or business having no invested capital or only a nominal capital, tax is 8 per cent of net income in excess of—

(a) \$3,000 in case of a domestic corporation;

(b) \$6,000 in case of a domestic partnership or a citizen or resident of the United States.

No deduction allowed in any other cases.

No similar provision.

No similar provision.

Not covered in the act. See Art. 17, Reg. 41.

No similar provision.

1918.

Part II.—Imposition of Tax.

SEC. 301. *Imposition of tax.*

(On corporations only.)

(a) For 1918.

Bracket.	Amount of net income.	Rate per cent.
1.	Net income in excess of excess-profits credit and not in excess of 20 per cent of invested capital.....	30
2.	Net income in excess of 20 per cent of invested capital.....	65
3.	Net income in excess of war-profits credit.....	80

The total tax will be the sum of the tax in brackets 1 and 2 plus the amount by which the tax in bracket 3 exceeds the tax in brackets 1 and 2. The total tax will be the sum of the tax in brackets 1 and 2 if such total exceeds the tax in bracket 3. The total tax under this section is subject to the provisions of Sec. 302.

No similar provision.

Personal service corporations not subject to the tax. See Sec. 303 for partial personal service corporation.

(b) For 1919 and subsequent years only the first and second brackets are used and the rates of tax are 20 per cent and 40 per cent, respectively. The total tax is subject to the provisions of Sec. 302.

(c) New in 1918 act.

Taxability of income in 1919 and subsequent years from Government contracts made between April 6, 1917, and November 11, 1918.

(d) If excess-profits credit is not exhausted under first bracket of subdivisions (a) or (b) the excess is to be applied to the second bracket.

(e) For the purpose of the act of March 21, 1918, placing transportation systems under Federal control, excess and war-profits tax is deemed as levied by an act in amendment of Title II, Revenue Act of 1917.

1917.

No similar provision.

Sec. 201.

All trades or businesses in which a partnership or a corporation is engaged are deemed a single trade or business and all income from whatever source received is treated as received from such trade or business. *See also* Sec. 209.

Sec. 201.

The tax applies to income from all trades or businesses except:

(a) Compensation or fees received by officers and employees of the United States, or any State, Territory, or the District of Columbia, or any local subdivision thereof, for their services as such.

(b) Corporations exempt under Sec. 11, Title I, Act of September 8, 1916, as amended; also partnerships and individuals to the extent that they are carrying on the same trade or business, or come within the same descriptions.

(c) Incomes derived from the business of life, health, and accident insurance combined in one policy issued on the weekly premium payment plan.

Sec. 202.

The tax shall not be imposed in the case of the trade or business of a foreign corporation or a foreign partnership, or a non-resident alien individual, the net income of which trade or business during the taxable year is less than \$3,000.

1918.

SEC. 302.—*Limitation of tax.*

Tax in subdivision (a) of Sec. 301, shall not exceed—

30 per cent of net income between \$3,000 and \$20,000, plus 80 per cent of net income over \$20,000.

Tax in subdivision (b) of Sec. 301 shall not exceed—

20 per cent of net income between \$3,000 and \$20,000, plus 40 per cent of net income over \$20,000.

Tax in (a) and (b), Sec. 301, when used in (c), Sec. 301, shall not exceed limitation as stated.

For limitation in case of return for less than 12 months, *see* Art. 732 of Reg. No. 45.

SEC. 303.—*Tax when partly personal-service business.*

If not less than 30 per cent of total net income is derived from personal service phase of business, the part of net income derived from nonpersonal service phase of business is taxed separately, using proportionate parts of excess and war profits credits.

The tax on personal service income will be the same percentage of such income as the tax on the nonpersonal service income is of such income, but not less than 20 per cent of the personal service income.

If tax on entire net income disregarding this section is less than 20 per cent of the income, this section will not apply.

Total tax under this section subject to limitation of Sec. 302.

Sec. 304.—*Exemptions.*

(a) Those listed in Sec. 231 to the extent they are exempt under Title II.

(b) Those having less than \$3,000 net income.

(c) Net income derived from mining gold.

1917.

Not specifically provided in the act.
See Art. 20, Reg. No. 41.

Sec. 200.
Same.

No similar provision.

1918.

SEC. 305.—*Apportionment of Specific Exemption.*

If the return is for less than 12 months, the specific exemption of \$3,000 must be reduced to the same proportion of \$3,000 that the period covered by the return bears to 12 months.

Part III.—Credits.

SEC. 310.—*Prewar period.*

Means calendar years 1911, 1912, 1913, or as many of such years during the whole of which the corporation was in existence.

SEC. 311.—*War profits credit.*

Conditions.	Specific exemption.	Credit.
(a) In general...	\$3,000	Plus average net income prewar period plus or minus as case may be, 10 per cent of the difference between average invested capital for prewar period and invested capital for taxable year. Prorate if return is for less than 12 months.
(b) No net income during prewar period or if credit in (a) is less than 10 per cent of invested capital for tax year.	3,000	Plus 10 per cent of invested capital for taxable year.
(c) Not in existence during all or at least one year of prewar period except as in (d).	3,000	Plus credit based on that of corporations engaged in same general class of business; but not less than 10 per cent of invested capital for taxable year. Until average percentage of net income to invested capital is determined, 10 per cent of invested capital for taxable year should be used.
(d) If corporation was not in existence during all of at least one prewar year, and (1) if majority of its stock is owned or controlled by a corporation which had a prewar existence, or. (2) if 50 per cent or more of its gross income was derived from a Government contract made between Apr. 6, 1917, and Nov. 11, 1918.		Compute credit under (b) instead of (c).
(e) Foreign corporations.	None.	See Sec. 327.

1917.

Sec. 203. Deduction.

(a) *Domestic corporation*: An amount equal to the same percentage of the invested capital for the taxable year which the average net income of the trade or business during the prewar period was of the invested capital for the prewar period (not less than 7 nor more than 9 per cent of invested capital for taxable year)—plus \$3,000.

(b) *Domestic partnership and citizen or resident of United States*. Same as in (a)—plus \$6,000.

(c) *Foreign corporation or partnership or a nonresident alien individual*. Same as in (a)—plus none.

(d) If prewar average net income cannot be determined, deduction shall be computed under Sec. 205. (See following Sec. 204, below.)

Sec. 204. Deduction (continued).

If corporation or partnership was not in existence or individual not in business during all of at least one prewar year: 8 per cent of invested capital for taxable year—plus \$3,000 for corporation; \$6,000 for partnership or individual.

Foreign corporation or partnership or nonresident alien individual: 8 per cent of invested capital for taxable year—plus none.

Sec. 205 (a). Deduction (continued).

If taxpayer had no net income during the prewar period, or if during the prewar period the percentage of the taxpayer's net income to invested capital was low as compared with similar data of representative taxpayers engaged in a like or similar business, the deduction shall be:

(1) *For domestic corporation*. An amount equal to the same percentage of its invested capital for the taxable year which the average deduction (determined as in Sec. 203 but excluding the \$3,000 or \$6,000 mentioned therein) for such year of representative corporations is of their average invested capital for such year—plus \$3,000.

(2) *For domestic partnership or citizen or resident of United States*: Amount computed on same principle as in (1)—plus \$6,000.

(3) *For foreign corporation or partnership or for nonresident alien individual*: Amount computed on same principle as in (1)—plus none.

Average percentage of net income to invested capital of representative taxpayers shall be determined by the Commissioner.

In case of taxpayers having fiscal years, the percentage determined by the calendar year ending during such fiscal year shall be used.

1918.

Sec. 312.—*Excess-profits credit*.

\$3,000 plus 8 per cent of invested capital for taxable year.

No specific exemption of \$3,000 to a foreign corporation. See Sec. 327.

Somewhat similar provision in Sec. 328 (b).

1917.

(b) In cases coming under this section (205), the tax is computed on the basis of a deduction determined under Sec. 203, but the taxpayer may file a claim for abatement of amount by which tax so assessed exceeds tax if assessed under this section (205).

Collection of tax covered by claim may be withheld till claim is decided but bond may be required of taxpayer.

Sec. 210.

When invested capital can not be determined by the Secretary of the Treasury, the deduction shall be:

An amount equal to the same proportion of the net income from the trade or business received during the taxable year as the proportion which the average deduction (as per Sec. 203 excluding \$3,000 and \$6,000) for the same calendar year of representative taxpayers engaged in a similar trade or business, bears to the total net income of the trade or business received by such taxpayers—plus \$3,000 in the case of a domestic corporation; \$6,000 in the case of a domestic partnership or a citizen or resident of the United States.

Proportion between deduction and net income in each trade or business to be determined by Commissioner. If taxpayers have fixed fiscal years the proportion determined for the calendar year ending during such fiscal year shall be used.

Sec. 206. Net income of corporations.

(a) 1911 and 1912.—Same as 1918.

(b) 1913.—Same as 1918.

(c) Taxable year. Net income computed as provided in Title I, Act of September 8, 1916, as amended by this act (Oct. 3, 1917) less dividends on stock of other corporations subject to the tax.

Not specifically covered in the act. Determined in same manner as for 1918.

1918.

See Sec. 327 (a).

Tax is determined on basis of ratio of average tax to average net income of representative taxpayers.

Somewhat similar provision in Sec. 328 (b).

PART IV.—Net income.

Sec. 320.—*Net income.*

(a) 1911: Net income as computed under act of August 5, 1909, plus taxes imposed by that act and paid during the year.

1912: Same as 1911.

1913: Net income as computed under act of October 3, 1913, plus taxes imposed by the act of August 5, 1909, and paid during the year, minus dividends on stock or from earnings of corporations taxable under that act.

Taxable year—Net income as computed for income-tax purposes.

(b) Average net income for prewar period determined by dividing number of years of prewar existence into net income for such years, no deduction to be made for years in which there was a net loss.

1917.

1918.

Net income, partnerships and individuals.

Net income for 1911, 1912, 1913, and taxable year, computed as provided in Title I, Act of September 8, 1916, as amended by this act (Oct. 3, 1917), except as follows:

(1) Credit allowed by Sec. 5 (b), act of September 8, 1916, as amended (dividends on stock of corporations subject to the tax) shall be deducted.

Deductions allowed partnerships:

Taxpayer.	Period.	Deductions.
Domestic partnership. and taxable year.	1911, 1912, 1913, and taxable year.	Same as individuals. See Sec. 5 (a), Act of September 8, 1916, as amended.
Foreign partnership.	Same.	Same as individuals. See Sec. 6 (a), Act of September 8, 1916, as amended.

Not specifically defined in the act.
See Art. 47 of Reg. No. 41.

Not specifically defined in the act.
See Art. 47 of Reg. No. 41.

Not specifically defined in the act.
See Art. 44, Reg. 41, par. 100.

Sec. 207, Par. 2.

As used in this title (II), invested capital does not include stocks, bonds (other than obligations of the United States) or other assets, the income from which is not subject to the tax imposed by this title.

No similar provision; partnerships and individuals not subject to the tax.

No similar provision; partnerships not subject to the tax.

Part V.—Invested Capital.

Sec. 325.—*Terms relating to Invested Capital.*

(a) Definitions:

Intangible property—

Patents.
Copyrights.
Secret processes and formulæ.
Good will.
Trade-marks.
Trade Brands.
Franchises.
Other like property.

Tangible property—

Stocks.
Bonds.
Notes.
Other evidences of indebtedness.
Bills and accounts receivable.
Leaseholds.
Property other than intangibles.

Borrowed Capital—

Money or other property borrowed.

Inadmissible assets—

Stocks, bonds, and other obligations (except obligations of the United States) the dividends or interest from which are not included in net income except where income from such assets consists in part of gains or profits from the sale or other disposition thereof, or interest from such assets is in effect included in net income by reason of Sec. 234 (a) 2, a corresponding part of the capital invested in such assets shall not be deemed inadmissible.

1917.

Not specifically defined in the act. See Par. 129, Art. 53, Reg. No. 41.

Not specifically defined in the act.

INVESTED CAPITAL.

Sec. 207 (a). In the case of a corporation or a partnership means—

(1) Actual cash paid in.

(2) Actual cash value of tangible property paid in other than cash for stock or shares at the time of such payment (but if paid in prior to Jan. 1, 1914, the actual cash value of the tangible property as at Jan. 1, 1914, but in no case to exceed the par value of the original stock or shares specifically issued therefor.)

Actual cash value of patents and copyrights paid in for stock or shares at the time of such payment may be included in invested capital, but not in an amount exceeding the par value of the stock specifically issued therefor.

Actual cash value of good will, trade-marks, trade brands, and like intangible property acquired for cash or tangible property at time acquired but not in excess of actual cash paid for same or cash value of tangible property specifically paid for same.

(3) Same as 1918, except the term "used or employed in the business," modifies surplus and undivided profits.

Good will, trade-marks, trade brands, and like intangible property acquired bona fide prior to March 3, 1917, for stock or shares in a corporation or interest or shares in a partnership may be included in invested capital at a value not exceeding—

(a) Actual cash value of intangibles at time paid in.

(b) Par value of stock specifically issued for same.

(c) Twenty per cent of the total interest or shares in the partnership or 20 per cent of the total par value of the stock outstanding as at March 3, 1917.

1918.

Admissible Assets—

All assets other than inadmissible valued in accordance with Secs. 326, 330, and 331.

(b) Par value in case of stock or shares issued at a nominal value or having no par value is the fair market value of such stock or shares as at the date of issue.

SEC. 326.—*Invested capital.*

(a) Invested capital means—

(1) Actual cash bona fide paid in for stock or shares.

(2) Actual cash value of tangible property other than cash, bona fide paid in for stock or shares at the time of such payment, but not in excess of par value of stock or shares specifically issued therefor unless cash value of property when paid in can be proved greater than par value of stock or shares issued therefor, in which case excess may be treated as paid in surplus.

Commissioner shall keep a record of cases coming within the above exception and upon request furnish a copy to Congress notwithstanding Sec. 257.

Patents and copyrights are classed as intangibles in Revenue Act of 1918 and subject to 25 per cent limitation if acquired for stock or shares.

Not specifically covered in 1918 act.

(3) Paid in or earned surplus and undivided profits, but not including surplus and undivided profits earned during the taxable year.

(4) Intangible property bona fide paid in for stock or shares prior to March 3, 1917, but not exceeding—

(a) Actual cash value of property when paid in.

(b) Par value of stock issued therefor.

(c) In the aggregate 25 per cent of par value of total outstanding stock or shares of the corporation March 3, 1917.

1917.

Not specifically covered in 1917 Act.
See Tax Reviewers' Minutes No. 34.

"Invested capital" as used in this title does not include money or other property borrowed.

"Invested capital" as used in this title (II) does not include stocks, bonds (other than obligations of the United States) or other assets, the income from which is not subject to the tax imposed by this title (II). *See also* Art. 53, para. 129 of Reg. No. 41.

Same as 1918, except that "averaged monthly" is added.

Not specifically defined in the act.

Sec. 207 (b).

INVESTED CAPITAL, INDIVIDUALS.

(1) Actual cash paid into the trade or business.

(2) Actual cash value of tangible property paid into the trade or business at the time of such payment but if paid in prior to January 1, 1914, only cash value of property as at that date may be included.

(3) Actual cash value of patents, copyrights, good will, trade-marks, trade brands, franchises or other intangible property paid into the trade or business, at the time of such payment, if payment was made therefor specifically in cash or tangible property, but not to exceed the actual cash paid or the actual cash value at the time paid of the tangible property specifically paid for the intangibles.

In case of foreign corporations and partnerships and nonresident alien individuals the invested capital means that proportion of the entire invested capital as defined in this title which the net income from sources within the United States bears to the entire net income.

1918.

(5) Intangible property bona fide paid in for stock or shares on or after March 3, 1917, but not exceeding:

(a) Same as in (4).

(b) Same as in (4).

(c) In the aggregate 25 per cent of par value of capital stock of corporation outstanding at beginning of taxable year.

(b) "Invested capital" does not include "borrowed capital."

(c) Invested capital as defined above must be reduced by a percentage thereof equal to the percentage which the amount of inadmissible assets is of the amount of admissible and inadmissible assets held during the year.

(d) Invested capital for any period means the average invested capital. In a return for a fractional part of a year, invested capital (except for purpose of Sec. 311 (a) 2), shall be the same fractional part of such average invested capital.

Average invested capital for prewar period is determined by dividing the number of years within that period into the sum of the average invested capital for such years.

Not covered in 1918 act. Individuals not subject to the tax.

See Secs. 327, 328.

SEC. 327.—*Special cases.*

War-profits and excess-profits tax shall be computed under Sec. 328 in the following cases:

1917.

When invested capital can not be determined by the Secretary. (See Sec. 210, under "Deduction.")

Foreign corporations were taxed on their net income from sources within the United States at the rates prescribed for domestic corporations but invested capital for the purpose of computing the deduction was determined as provided in Sec. 207 (b).

No similar provision in 1917 act. Compare with Art. 59, Reg. 41. Under the 1917 act, cases of this kind were adjusted under Sec. 210 only when the Secretary of the Treasury was unable to determine satisfactorily the respective values of the several classes of property at the time of payment.

No similar provision.

No similar provision.

Under Sec. 210 the adjustment is made on the basis of similar deductions instead of ratio between net income and tax.

See Sec. 210, par. 2.

No similar provision.

No similar provision.

1918.

(a) When invested capital (Sec. 326) can not be determined by the Commissioner.

(b) In the case of foreign corporations.

(c) Where a mixed aggregate of tangible and intangible property was paid in for stock or for stock and bonds and respective values as at time of payment, or classes of property paid in for the stocks or bonds can not be determined.

(d) Where the Commissioner declares of record that the tax if determined without the benefit of this section would owing to abnormal conditions affecting capital or income work exceptional hardship on a corporation.

This subdivision (d) will not apply to any case—

(1) In which tax is high merely because a high rate of income was earned during the taxable year on a normal invested capital.

(2) In which 50 per cent or more of the gross income (computed under Sec. 233) consists of gains, etc., derived on a cost-plus basis from Government contracts made between April 6, 1917, and November 11, 1918.

SEC. 328.—*Computation of tax in special cases.*

(a) Tax in cases under Sec. 327 shall be the amount which bears the same ratio to the net income of the taxpayer (in excess of \$3,000) for the taxable year as the average tax of representative corporations engaged in a like or similar trade or business bears to their average net income (in excess of \$3,000). In case of foreign corporations tax will be computed disregarding the exemption of \$3,000.

"Representative corporations" will include only those whose invested capital under Sec. 326 can be determined and are similarly circumstanced to the taxpayer.

(b) Computation of first installment of tax under Sec. 327. Tax shall be on basis of 50 per cent of net income pending final adjustment.

(c) Commissioner shall keep record of cases coming under this section and upon request furnish list to Congress notwithstanding Sec. 257.

1917.

SEC. 204, par. 2.

Same as 1918, except that date is January 2, 1913.

No similar provision.

No similar provision.

No similar provision.

SEC. 208.

Same as 1918 act, *except* that 1918 act adds "change in ownership of property" to the conditions under which the respective sections apply.

SEC. 200. Tax on fiscal-year returns ended in 1917.

The same fractional part of the tax computed under the Revenue Act of 1917 for the entire period as the time from January 1, 1917, to the end of the fiscal year, is of the full fiscal year.

1918.

Part VI.—Reorganizations.

SEC. 330.—*Reorganizations.*

Reorganization, consolidation, or change of ownership after January 1, 1911. Pre-war history of successor taxpayer shall be deemed to be that of the predecessor taxpayer.

A trade or business in which capital is a material income producing factor, which was previously owned by a partnership or an individual, and is incorporated prior to July 1, 1919, may elect to have its net income from January 1, 1918, to date of incorporation taxed as that of a corporation.

Paragraph 3 of this section is not applicable in any case where net income for 1918 was less than 20 per cent of invested capital for 1918.

Adjustment of values of assets in existence during both prewar period and taxable year.

SEC. 331.—*Valuation of assets upon reorganization.*

Reorganization, etc., or change in ownership of property after March 3, 1917. If interest or control in trade or business or property of 50 per cent or more remains in the same persons or any of them, no asset transferred may be valued for invested capital purposes at value greater than would have been allowed previous owner.

Part VII.—Miscellaneous.

SEC. 335.—*Fiscal years ending in 1918 or 1919.*

(a) Fiscal year ending in 1918.

(1) Compute tax for entire period according to Revenue Act of 1917 and take same fractional part of tax as number of months of period falling in 1917 is of the whole period.

(2) Compute tax for entire period according to Revenue Act of 1918 and take same fractional part of tax as number of months of period falling within 1918 is of the whole period.

(3) The tax will be the sum of (1) and (2) less any tax already paid for same period under Revenue Act of 1917.

(b) Fiscal year ended in 1919.

(1) Compute tax for entire period under Sec. 301 (a) and take same fractional part of tax as number of months of period falling within 1918 is of whole period.

(2) Compute tax for entire period under Sec. 301 (b) or (c), as the case may be,

1917.

See Arts. 10, 11, 12, and 13 of Reg. No. 41.

No similar provision.

SEC. 211.

Income return required of every—

(a) Foreign partnership with net income of \$3,000 or more.

(b) Domestic partnership with net income of \$6,000 or more.

Return to be rendered in same manner and same time as prescribed under Title I, act of September 8, 1916, as amended.

SEC. 212.

Administrative, special, and general provisions of law relating to internal revenue taxation not heretofore repealed and not inconsistent with provisions of this title, and all provisions of Title I, Revenue Act of 1916 as amended relating to returns and payment of tax are made applicable to tax imposed by this title.

SEC. 213.

Commissioner may make necessary regulations and require taxpayers to furnish information necessary to collect the tax.

1918.

and take same fractional part of tax as number of months of period falling within 1919 is of entire period.

(3) The tax will be the sum of (1) and (2).

(c) Fiscal year of partnership or personal service corporation ended in 1918.

Tax will be same fractional part of tax for entire period computed under Revenue Act of 1917 as the number of months of the period falling within 1917 is of the entire period. Any excess paid to be refunded.

SEC. 336.—Returns.

All corporations except those exempt under Sec. 304 must make returns. Returns to be made and taxes paid as provided for purposes of Title II. *See also* Form 1120, page 2, of Instructions, pars. 2 and 3.

SEC. 337.—Sale of mineral deposits.

Tax in case of bona fide sale of mines, oil or gas wells, or any interest therein where principal value has been demonstrated by prospecting or exploration or discovery work done by the taxpayer shall not exceed 20 per cent of the selling price of such property or interest.

Partnerships not subject to the tax. No excess or war profits return required. For income return, see Sec. 224.

Covered in Sec. 1305.

Covered in Sec. 1305.

1917.

Sec. 214. Excess-profits tax law, Act of March 3, 1917, repealed.

Provision made for credit of taxes paid under said act against tax due under this title.

Not covered in 1917 act.

Sec. 22, act of 1916 as amended.

Sec. 1001, act of 1917.

Sec. 16, act of 1916 as amended.

Sec. 1005, act of 1917.

Sec. 1008, act of 1917.

Sec. 1010, act of 1917.

Sec. 20, act of 1916 as amended.

Not covered in 1917 act.

Sec. 24, act of 1916 as amended.

Sec. 1300, act of 1917.

1918.

No similar provision.

TITLE XIII.—GENERAL ADMINISTRATIVE PROVISIONS.

SEC. 1301.—*Advisory Tax Board.*

Creation of Advisory Tax Board and procedure in submitting questions to the board. New in 1918 act.

SEC. 1305.—*Extension of existing statutes.*

Par. 1. Same as 1917 act.

Pars. 2 and 3. Practically same as 1917 act.

SEC. 1309.—*Authority for regulations.*

Same as 1917 act.

SEC. 1313.—*Fractional part of cent.*

Same as 1917 act.

SEC. 1314.—*Medium of payment of tax.*

Same as 1917 act.

SEC. 1318.—*Jurisdiction of district court.*

Practically same as 1917 act.

SEC. 1320.—*Deposit of United States bonds as security.*

New in 1918 act.

TITLE XIV.—GENERAL PROVISIONS.

SEC. 1400.—*Repeal of former acts.*

New in 1918 act.

SEC. 1402.—*Validating provisions.*

Same as 1917 act.

SEC. 1405.—*Citation of act.*

New in 1918 act.

SEC. 1408.—*Inspection of Government contracts.*

New in 1918 act.

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